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09/687,484

10/13/2000

Donald C. Jackson

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EXAMINER

PHAN, MAN U

ART UNIT

PAPER NUMBER

2616

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

01/19/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/687,484

Applicant(s)

JACKSON ET AL.

Examiner

Man Phan

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 16-22 and 25-68 is/are pending in the application.
- 4a) Of the above claim(s) 42-66 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 36-41 is/are allowed.
- 6) ☒ Claim(s) 1-8, 16-19, 22, 27-31 and 34-41 is/are rejected.
- 7) ☒ Claim(s) 20, 21, 25, 26, 32 and 33 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

Response to Amendment and Argument

1. This communication is in response to applicant's 11/20/2006 communications in the application of Jackson et al. for a "Method and apparatus for localized voice over internet protocol usage" filed 10/13/2000. This application claims benefit from Provisional Application 60/219,911 dated 07/21/2000. This application is a Request for Continued Examination (RCE) under C.F.R. 1.114 filed on June 13, 2005. The proposed amendments to the claims and remark filed 05/30/2006 have been entered and made of record. Claims 9-15, 23-24 have been canceled per Applicant's requested, claims 1, 6, 19-22, 25-26, 29, 33, 36-41 have been amended, and claims 67-68 have been added. Claims 1-8, 16-22, 25-68 are pending in the application.

Remarks

2. Applicant's amendment to the pending claims have been considered but are moot in view of the new ground(s) of rejection, and will be examined as discussed below. Furthermore, in the telephone interview on October 23, 2006, it was agreed that the 35 USC 112 first paragraph rejection was overcome. The Examiner withdraws the Final rejections mailed 07/25/2006, and the newly added limitations will be discussed as follows.

3. Applicant's amendment and argument to the rejected claims are insufficient to distinguish the claimed invention from the cited prior arts or overcome the rejection of said claims under 35 U.S.C. 103 as discussed below. Applicant's argument with respect to the

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pending claims have been fully considered, but they are not persuasive for at least the following reasons.

4. Applicant's argument with respect to the restriction by original presentation (page 19) that *"not one of the claims of group I includes features related to a switching network that has a switch which establishes a path between a source and destination, route information..."*. The Applicant's attention is directed to Fig. 3 (specification, page 11 plus) that best described the claimed limitations of group I, in which the telephone gateway 107 is supported by media gateway 302 which is connected to the PSTN via a digital switch (not shown), or a Voice over Internet Protocol (VoIP) telephone that is connected to the PSTN via a data network. As shown in Fig. 3, a VOIP gateway (VOIP GW) for performing protocol conversion is installed at a border between the IP network and the existing circuit switch network. When both or one of terminals for the call is a terminal compatible with the circuit switch network (for example, a PSTN-compatible telephone), protocol conversion between the circuit switch network and the IP network is performed at the VOIP gateway (for example, conversion between an analog voice signal and an IP voice packet). Typically, the VoIP gateway includes a subscriber line connector, and a switch for connecting between subscribers who are connected through lines based on address associated with the information data. To facilitate call routing in such VoIP environments, originating and terminating switches (not shown) can be connected to PSTN/IP gateways that belong to both the IP network and the PSTN. Based on the called number or other signaling indicator, the switches route certain calls through the IP gateways instead of the PSTN. It is widely known in the art that Session Initiation Protocol (SIP) telephony is commonly used to establish the call set-up process. SIP is the predominant IETF standard and it is the chosen

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signaling protocol for upcoming 3GPP and 3GPP2 all-IP networks. Applicant further alleged that not one of the group II includes the features related to a *“device for interconnecting two or more networks at a media access level of a data link layer”*. However, independent claims 42, 54 and 66-67 (group II) drawn to the bridge or gateway between networks (PSTN and IP) utilizing application server as the media access level for establishing a session with the network interface (see also Fig. 3 of the present application, specification, page 11 plus).

Based on the analyzing as above, the inventions are distinct, each from the other because of the following reasons: Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II which has separate utility such as an application server as the media access level for establishing a session with the network interface, which does not include the particular listed of the invention I, such as method for automated interaction with users participating in the calls using network server in communication with the IP network medium. See MPEP ' 806.05(d). Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

Applicant's argument with respect to the rejected claims 1, 6, 22, 29 (pages 21-24) that the cited reference does not show or suggest *“where the call is transmitted as a data stream of uncompressed data from the gateway to the network server”* and *“located in close physical proximity to the PSTN-to-IP gateway”* and *“to allow or disallow the calls based on a telephone number associated with the calls”*. However, as admitted by the prior art shown in Figs. 1 & 2,

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the essentially uncompressed transmission of the data packets from the communication terminal device to the data compression device can usually be ignored or at least accepted. In real-time communication between a communication terminal device of a first packet-oriented communication network and a second packet-oriented communication network, data packets which are to be transmitted are transmitted from the communication terminal device in essentially uncompressed form via the first communication network to a data compression device, in order to be compressed before being forwarded into the second communication network. In this real-time voice connection, a voice data stream which is to be transmitted is divided up by the communication terminal device KE among Internet-Protocol-based data packets DP which are transmitted via the local area network LAN to the gateway GW. The voice data stream transmitted within the data packets DP essentially comprises sampling values, preferably coded in accordance with ITU-T Recommendation G.711, of voice signals which are to be transmitted during the real-time voice connection. The sampling values are transmitted within the data packets DP in uncompressed form from the communication terminal device KE via the local area network LAN to the gateway GW. No computing-intensive compression of the voice data is therefore carried out in the communication terminal device KE.

In response to Applicant's argument that the reference does not teach or reasonably suggest the functionality upon which the Examiner relies for the rejection. The Examiner first emphasizes for the record that the claims employ a broader in scope than the Applicant's disclosure in all aspects. In addition, the Applicant has not argued any narrower interpretation of the claim limitations, nor amended the claims significantly enough to construe a narrower meaning to the limitations. Since the claims breadth allows multiple interpretations and

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meanings, which are broader than Applicant's disclosure, the Examiner is required to interpret the claim limitations in terms of their broadest reasonable interpretations while determining patentability of the disclosed invention. See MPEP 2111. In other words, the claims must be given their broadest reasonable interpretation consistent with the specification and the interpretation that those skilled in the art would reach. See *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000), *In re Cortright*, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999), and *In re American Academy of Science Tech Center*, 2004 WL 1067528 (Fed. Cir. May 13, 2004). Any term that is not clearly defined in the specification must be given its plain meaning as understood by one of ordinary skill in the art. See MPEP 2111.01. See also *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989), *Sunrace Roots Enter. Co. v. SRAM Corp.*, 336 F.3d 1298, 1302, 67 USPQ2d 1438, 1441 (Fed. Cir. 2003), *Brookhill-Wilk 1, LLC v. Intuitive Surgical, Inc.*, 334 F.3d 1294, 1298 67 USPQ2d 1132, 1136 (Fed. Cir. 2003). The interpretation of the claims by their broadest reasonable interpretation reduces the possibility that, once the claims are issued, the claims are interpreted more broadly than justified. See *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). Also, limitations appearing in the specification but not recited in the claim are not read into the claim. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Therefore, the failure to significantly narrow definition or scope of the claims and supply arguments commensurate in scope with the claims implies the Applicant intends broad interpretation be given to the claims. The Examiner has interpreted the claims in parallel to the Applicant in the response and reiterates the need for the Applicant to distinctly define the

claimed invention. The Examiner maintains that the references cited and applied in the last office actions for the rejection of the claims are maintained in this office action.

Election by Original Presentation

5. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-41 drawn to the Combined circuit switching and packet switching: Subject matter wherein the switching network has both (a) a switch which establishes a path between a source and destination with the path being held for the duration of the communication, and (b) a switch which routes information based on an address associated with the information data in a channel which is only occupied for a duration of the time required to transmit the information data and the associated address. Classified in **class 370, subclass 352**.
 - II. Claims 42-66 drawn to the Bridge or gateway between networks: Subject matter having a device for interconnecting two or more networks at a media-access level of a data-link layer. Having a plurality of nodes performing distributed switching: Subject matter having a switching architecture in which a plurality of switch nodes are provided such that the switching function is spread out over a geographical area, wherein information data to be switched is organized with one or more bytes preceded by an identification information indicative of a source or destination station. Classified in **class 370, subclass 401**.

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6. Newly submitted claims 42-66 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II which has separate utility such as an application server as the media access level for establishing a session with the network interface, which does not include the particular listed of the invention I, such as method for automated interaction with users participating in the calls using network server in communication with the IP network medium. See MPEP ' 806.05(d). Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 42-66 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

Claim Rejections - 35 USC ' 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 1, 6, 16-19, 22, 27-31, 34-35 and 67-68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aldous et al. (US#6,654,722) in view of Subramaniam et al. (US#6,070,187).

With respect to claims 1, 6, 22, 29 and 67-68, Aldous et al. disclose in Figs. 1 & 2 block diagrams illustrated a VoIP based speech system for servicing a call received over a PSTN

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comprising: a PSTN-to-IP gateway 3 for connecting to the PSTN 2; an IP network medium 4 connected to the gateway; and a network server 7 in communication with the IP network medium 4 for automated interaction with a user 1 participating in the call (Col. 5, lines 20 plus). Aldous further teaches in Fig. 2 illustrated more detail of the VoIP telephony gateway server 3, in which the VoIP gatekeeper 14 (*proxy server functionality*) can perform load balancing in order to ensure the high availability of VoIP enabled speech servers 5 (*plurality of network servers*) able to receive the voice call (Col. 5, line 59 to Col. 6, line 18).

Aldous et al. does not disclose expressly the configuration server and call discrimination in forwarding the packet switched call. However, Aldous teaches a VoIP-based speech system, in which a VoIP telephony gateway server; at least one speech server, each speech server containing a VoIP-enabled speech application; a VoIP-compliant call control interface between the VoIP telephony gateway server and the speech server; and, a VoIP communications path between the VoIP telephony gateway-server and the speech application in the at least one speech server (*providing automated dynamic management of the network server*). In the VoIP-based speech system, the VoIP telephony gateway server and the speech application can establish the VoIP communications path through the VoIP-compliant call control interface (see Fig. 2; Col. 2, lines 35 plus). In the same field of endeavor, Subramaniam et al. (US#6,070,187) discloses a method and apparatus that allows a network node to be automatically configured with an IP address and a default gateway address to be configured as its own gateway. The configuration agent resides on a network device (such as a switch or bridge) that is coupled to two network segments, with one network segments including a node to be configured and another network segment including a server capable of automatically providing configuration

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parameters. The configuration agent acts as a snoopy agent. Messages from the configuration server to the node to be configured are "snooped" to discover messages containing an IP address and a default gateway address. Such messages are altered to copy the IP addresses offered to the nodes seeking configuration to the default gateway addresses, and the messages are sent on their way, thereby causing nodes seeking to be configured to be configured as their own default gateway. In some configurations, messages from the node to be configured to the configuration server are altered to ensure that messages from the configuration server to the node seeking to be configured are broadcast messages (See Figs. 3, 6; Col. 6, lines 25 plus).

Although Aldous et al. and Subbramaniam do not specifically refer to the *blasting process* in providing automated dynamic management of the network server. This *blasting process* is well known in the art and are widely known in the communication management functions for providing user notification and connectivity to handle the access to the system resources. As shown in Fig. 2, Aldous et al. teaches a block diagram illustrated the architecture for the VoIP telephony gateway server of Fig. 1, in which advance call management module 15 is provided to implement (alone or in conjunction with other modules) management functions required to permit use of the system by content providers and subscribers, as well as process the blasts transmitted through the system. For example, server management module 15 is programmed to permit creation, deletion, distribution, tracking, and logging of data pertinent to blasts processed by server 14 (Col. 6, lines 20 plus).

Regarding claims 16-19, 27-28 and 30-31, 34, 35, Subbramaniam further teach in Figs. 7-10 the flow charts illustrated how the DHCP proxy agent of Fig. 6 processes packets in VoIP communications. At block 138, a packet is received. Control then passes to decision block 140,

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which determines whether the packet is a DHCPDISCOVER, DHCPREQUEST, DHCPPOFFER, DHCPACK, or DHCPNAK packet specifying a network node to be configured as its own gateway. Similar to DHCP snoopy agent 102 as described above, proxy agent 120 can also be configured to maintain a table of MAC addresses identifying network nodes that are to be "helped". If the packet is not one of these packets, or the node is not configured to be "helped", the "NO" branch is taken to block 142, where the packet is transmitted. Control then passes back to block 138 to wait for the next packet to be received. Note that DHCP proxy agent 130 is configured to receive all broadcast packets transmitted in the configuration dialogue. In addition, if any of the packets are from the client are unicast, agent 130 will also receive those packets since the client seeking to be configured will believe that agent 130 is its DHCP server (Col. 12, lines 62 plus).

One skilled in the art would have recognized the need for effectively and efficiently using VoIP enabled speech server for communicating information, and would have applied Subramaniam's novel use of the configuration server in VoIP into Aldous's teaching of the VoIP enabled speech server. Therefore, It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to apply Subramaniam's method and apparatus for configuring a network node to be its own gateway into Aldous's voice over IP protocol based speech system with the motivation being to provide a method and system for supporting voice activated services over a telephone interface.

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10. Claims 2-5, 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aldous et al. (US#6,654,722) in view Subramaniam et al. (US#6,070,187) as applied to the claims above, and further in view of Brown et al. (US#6,604,075).

With respect to claim 2, Aldous and Subramaniam disclose the claimed limitations as discussed in the paragraph 9 above. In the same field of the endeavor Brown et al. (US#6,604,075) discloses a novel method and system for use in communicating information in VoIP using a web-based voice dialog interface, according to the essential features of the claims. Brown provides an Interactive Voice Response (IVR) platform which includes a speech synthesizer, a grammar generator and a speech recognizer. The speech synthesizer generates speech, which characterizes the structure and content of a web page retrieved over the network. The speech is delivered to a user via a telephone or other type of audio interface device. The grammar generator utilizes textual information parsed from the retrieved web page to produce a grammar. The grammar is then supplied to the speech recognizer and used to interpret voice commands generated by the user. The grammar may also be utilized by the speech synthesizer to create phonetic information, such that similar phonemes are used in both the speech recognizer and the speech synthesizer (Col. 2, lines 36 plus).

With respect to claims 3-5 and 7-8, Aldous teaches a method for coupling a speech application to a telephony gateway server in a VoIP network. Notably, as shown in Fig. 1 of the preferred embodiment, the VoIP Enabled Speech Server 5 can accept voice commands originating in the telephone device 1 for retrieving Web content from a Web server 7 in a data communications network 6. Specifically, the Web content 8 can be a VoiceXML document 8. In response, the VoIP Enabled Speech Server 5 can retrieve the VoiceXML document 8 from the

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Web server 7 and can synthesize audio data according to instructions contained in the VoiceXML document 8. Subsequently, the synthesized audio data can be transported across the VoIP network 4 to the VoIP telephony gateway server 3 and ultimately to the telephone device 1 (Col. 5, lines 47 plus). Aldous further teaches several well-known protocols implement the VoIP protocol specification including H.323, Session Initialization Protocol ("SIP") and Master Gateway Control Protocol ("MGCP"), upon which voice traffic can be transmitted across IP networks. In a VoIP network, analog speech signals received from an analog speech audio source, for example a PSTN or a microphone, are digitized, compressed and translated into IP packets for transmission over an IP network (Col. 1, lines 34-45).

One skilled in the art would have recognized the need for effectively and efficiently using VoIP enabled speech server for communicating information, and would have applied Brown's teaching of the speech synthesizer, a grammar generator and a speech recognizer in VoIP into Subramaniam's novel use of the configuration server in VoIP and Aldous's teaching of the VoIP enabled speech server. Therefore, It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to apply Brown's web-based voice dialog interface into Subramaniam's method and apparatus for configuring a network node to be its own gateway and Aldous's voice over IP protocol based speech system with the motivation being to provide a method and system for supporting voice activated services over a telephone interface.

Allowable Subject Matter

11. Claims 36-41 are allowable

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Claims 20-21, 25-26 and 32-33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for the indication of allowable subject matter: The closest prior art of record fails to disclose or suggest wherein the if the proxy server detects that a number of calls exceeds a predetermined threshold, then the proxy server follows at least one predetermined call routing rule provided by the configuration server, as specifically recited in the claims 20, 25, 32 and 36-41.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION THIS ACTION IS MADE FINAL**. See MPEP '706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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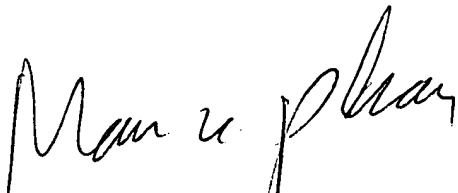
13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Man U. Phan whose telephone number is (571) 272-3149. The examiner can normally be reached Monday through Friday from 6:00 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin, can be reached on (571) 272-3134. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-2600.

Mphan

01/16/2007.


MAN U. PHAN
PRIMARY EXAMINER